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SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			EXAMINER VAN BRAMER, JOHN W	
			ART UNIT 3622	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

DETAILED ACTION

Response to Amendment

1. The amendment filed on April 16, 2007, cancelled claims 8-14, 16-23, and 54. Claims 1, 24, 53, 55 and 56 were amended and claims 57-61 have been added. Thus, the currently pending claims are 1-7, 15, 24, 39, 52, 53, and 55-61.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-7, 15, 24, 52, 53, 55, and 56 are rejected under 35 U.S.C. 102(e) as being anticipated by Eggleston et al. (U.S. Patent Number: 6,061,660).

Claim 1: Eggleston discloses a method for allowing a first customer to create an individual, modified motivation or recognition first program having first participants, said first program permitting the first participants to access the first program via first participant processor and to earn awards through the first program on the basis of the first participants' performance, said first program of the first customer operating according to preferences selected by the first customer, said method for allowing a

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second customer to create an individual modified motivation or recognition second program having second participants, said second program permitting the second participants to access the second program via second participant processors and to earn awards through the second program on the basis of the second participant's performance, said second program of the second customer operating according to preferences selected by the customer, said method comprising the steps of:

- a. Allowing the first customer to electronically access via a first customer processor a browsable catalog of predefined programs stored in a storage device; allowing the first customer to electronically select via the first customer processor a first one of the predefined programs stored in the storage device (Col 14, lines 6-65)
- b. Allowing the firsts customer to electronically modify via the first customer processor at least one component of the selected first predefined program. (Col 14, lines 6-65)
- c. Allowing the first customer to electronically store via the first customer processor the modified first program in the storage device for access by the first customer. (Col 10, lines 28-42; Col 12, lines 38-48; and Col 14, lines 6-65)
- d. Allowing the second customer to electronically access via a second customer processor the browsable catalog of predefined programs stored in a storage device connected to the program processor; allowing the second customer to electronically select via the second customer processor a second one of the predefined programs stored in the storage device (Col 14, lines 6-65)

- e. Allowing the second customer to electronically modify via the second customer processor at least one component of the selected second predefined program.
(Col 14, lines 6-65)
- f. Allowing the second customer to electronically store via the second customer processor the modified second program in the storage device for access by the second customer. (Col 10, lines 28-42; Col 12, lines 38-48; and Col 14, lines 6-65)
- g. Allowing the first customer to operate the modified first program via the program processor, and allowing the second customer to operate the modified second program via the program processor, wherein the first and second participant processors and the first and second customer processor are remote from said program processor and remote from the storage device connected to the program processor. (Col 10, lines 28-42; Col 12, lines 38-48; and Col 14, lines 6-65)
- h. Providing the first customer's participants with access via the first participant processors to the modified first program stored in the storage device, and providing the second customer's participants with access via the second participant processors to the modified second program stored in the storage device, said modified first and second programs executed by the program processor. (Col 14, lines 6-65)

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Claim 3: Eggleston discloses the method of claim 1, wherein the awards are award points, and wherein the providing step comprises the step of electronically providing each customer's participants with access to a browsable catalog of award items, which may be obtained by the participant. (Col 12, line 58 through Col 13, line 6)

Claim 4: Eggleston discloses the method of claim 3, further comprising the step of allowing each customer's participants to electronically redeem the award points for the award items. (Col 21, line 29 through Col 22, line 32)

Claim 5: Eggleston discloses the method of claim 3, further comprising the step of allowing each participant to view data indicating the amount of the award points of such participant. (Col 16, line 46 through Col 17, line 8)

Claim 6: Eggleston discloses the method of claim 3, further comprising the step of allowing each participant to view data indicating transactions by such participant. (Col 16, line 46 through Col 17, line 8)

Claim 7: Eggleston discloses the method of claim 1, wherein the step of allowing each customer to operate the modified program further includes the step of allowing a program processor to generate electronic progress reports for the participants in the modified program indicating program information. (Col 16, line 46 through Col 17, line 8)

Claim 15: Eggleston discloses the method of claim 1, wherein the browsable catalog of predefined programs has a plurality of business challenges, and further comprising the step of allowing each customer to select one of the business challenges to reduce the number of predefined programs of the browsable catalog, which may be selected. (Col 19, line 56 through Col 20, line 32)

Claim 24: Eggleston discloses a system for allowing multiple customers to each create an individual, modified motivation or recognition program having participants, each said program permitting the participants to access their program via a participant processor and to earn awards on the basis of the participants' performance, each said program of a particular customer operating according to preferences selected by the particular customer, said system comprising:

- a. A storage device (Col 11, lines 20-35 and Col 14, lines 6-65)
- b. A program processor connected to the storage device, said storage device storing a program for controlling the program processor, said program processor operative with the program wherein the participant processor and the customer processor are remote from said program processor and remote from the storage device:
 - i. To electronically provide to each customer access to a browsable catalog of predefined programs stored in the storage device, each program associated with a business challenge. (Col 11, lines 20-35 and Col 14, lines 6-65)

- ii. To allow each customer to electronically select a business challenge wherein the predefined programs associated with the business challenge are presented to the customer wherein the predefined programs are designed to promote the selected business challenge. (Fig. 20; Col 7, lines 40-45; and Col 31, lines 25-58)
- iii. To allow each customer to electronically select one of the presented predefined programs stored in the storage device. (Col 11, lines 20-35 and Col 14, lines 6-65)
- iv. To allow each customer to modify at least one component of the selected predefined program. (Col 11, lines 20-35 and Col 14, lines 6-65)
- v. To allow each customer to electronically store the modified program in the storage device for access by such customer. (Col 11, lines 20-35 and Col 14, lines 6-65)
- vi. To allow each customer to electronically create or review a proposal and/or invoice relating to the modified program. (Col 11, lines 20-35 and Col 14, lines 6-65)
- vii. To allow each customer to operate the modified program. (Col 11, lines 20-35 and Col 14, lines 6-65)
- viii. To provide each customer's participants with access to the modified program stored in the storage device, said modified program executed by the program processor. (Col 11, lines 20-35 and Col 14, lines 6-65)

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Claim 52: Eggleston discloses the method of claim 1, further comprising providing each customer with a notification via the program processor when the modified program requires operational maintenance. (Col 35, line 21 through Col 36, line 19)

Claim 53: Eggleston discloses the method of claim 24, wherein the customer specifies a promotion code, and wherein one or more terms associated with the promotion code are applied the purchase by the customer. (Col 34, line 20 through Col 36, line 19)

Claim 55: Eggleston discloses a method for allowing multiple customers to each create an individual modified motivation or recognition program having participants, said programs of said multiple customers supplied by a program supplier, each said program permitting the participants to access their program via a participant processor and to earn awards through the program in which they participate on the basis of the participants' performance, each said program of a particular customer operating according to preferences selected by the particular customer, said method comprising the steps of:

- a. Allowing a first customer via a first customer processor and allowing a second customer via a second customer processor to electronically access a browsable catalog of predefined programs stored in a storage device connected to a program processor, said storage device and said program processor being remote from said customer processor and remote from said participant

- processor, wherein the first customer's access and program is independent of the second customer's access and program. (Col 10, lines 28-42; Col 12, lines 38-48; and Col 14, lines 6-65)
- b. Allowing the first customer and the second customer to each electronically select one of the predefined programs stored in the storage device via their customer processor, wherein the first customer's selection is independent of the second customer's selection. (Col 14, lines 6-65)
 - c. Allowing the first customer and the second customer to each electronically select via their customer processor a rules structure of the selected predefined program, said rules structure defining the manner in which awards are earned by the first and second customer's participants, wherein the first customer's modification is independent of the second customer's modification. (Col 14, line 66 through Col 15, line 15; and Col 35, line 3 through Col 36, line 19)
 - d. Allowing the first customer to electronically store the first modified program in the storage device for access by the first customer via the first customer processor. (Col 14, lines 6-65)
 - e. Allowing the second customer to electronically store the second modified program in the storage device for access by the second customer via the second customer processor. (Col 14, lines 6-65)
 - f. Allowing the first customer to operate the first modified program via the first customer processor. (Col 11, lines 20 – 35 and Col 11, line 66 through Col 12, line 11)

- g. Allowing the second customer to operate the second modified program via the second customer processor, wherein the operation of the first modified program is independent of the second modified program. (Col 11, lines 20 – 35 and Col 11, line 66 through Col 12, line 11)
- h. Providing the first customer's participants with access via their participants processor to the first modified program stored in the storage device, said modified program executed by the program processor, the first customer's participants earning awards based on the rules structures of the first modified program. (Col 10, line 55 through Col 11, line 7; and Col 35, line 3 through Col 36, line 19)
- i. Permitting the second customer's participants with access via their participant processor to the second modified program stored in the storage device, said modified program executed by the program processor, the second customer's participants earning awards based on the rules structures of the second modified program, wherein access by the first customer's participants to the first modified program is independent of access by the second customer's participants to the second modified program. (Col 10, line 55 through Col 11, line 7; and Col 35, line 3 through Col 36, line 19)

Claim 56: Eggleston discloses a method for allowing multiple customer to each create an individual, modified motivation or recognition program having participants, each said program permitting the participants to access their program via a

participant processors and to earn awards through their program on the basis of the participants' performance, each said program of a particular customer operating according to preferences selected by the particular customer, said method comprising the steps of:

- a. Allowing each customer to electronically access via a customer processor a browsable catalog of predefined programs stored in a storage device connected to a program processor, each predefined program including a rules structure, said rules structure defining the manner in which awards are earned by the customer's participant. (Col 10, lines 28-42; Col 12, lines 38-48; Col 14, lines 6-65; and Col 35, line 3 through Col 36, line 19)
- b. Allowing each customer to electronically select via the customer processor one of the predefined programs stored in the storage device. (Col 14, lines 6-65; and Col 35, line 3 through Col 36, line 19)
- c. Allowing each customer to electronically modify via the customer processor the rules structure of the selected predefined program. (Col 14, line 66 through Col 15, line 15; and Col 35, line 3 through Col 36, line 19)
- d. Allowing each customer to electronically store via the customer processor the modified program including the modified rules structure in the storage device for access by such customer. (Col 14, lines 6-65)
- e. Allowing each customer to operate the modified program via the program processor (Col 11, lines 20 – 35 and Col 11, line 66 through Col 12, line 11), and wherein the participant processor and the customer processor are remote from

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said program processor and remote from the storage device connected to the program processor. (Col 6, lines 13-19; Col 6, lines 31-46; Col 6, line 53 through Col 7 line 6; and Col 7, line 54 through Col 8, line 20; and Col 12, lines 38-48)

- f. Providing each customer's participants with access via a participant processor to the modified program stored in the storage device, said modified program executed by the program processor wherein each customer's participants earn awards according to the modified rules structure of the customer's program. (Col 10, line 55 through Col 11, line 7; and Col 35, line 3 through Col 36, line 19)

Claim 57: Eggleston discloses the method of claim 56 wherein the rules structure are used to promote the performance of the customer's participants in one or more of the following areas: sales, suggestions, safety, productivity, and presenteeism. (Fig. 20; Col 7, lines 40-45; and Col 31, lines 25-58)

Claim 58: Eggleston discloses the method of claim 56 wherein allowing each customer to electronically modify via the customer processor the rules structure of the selected predefined program further comprises:

- a. Displaying a series of questions to each customer to gather information related to rules structure of program. (Co. 35, lines 3-20)
- b. Receiving responses from each customer for each displayed question. (Col. 35, lines 3-20)

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c. Modifying the rules structure of the customer's program based on the received responses. (Col. 35, lines 3-20)

Claim 59: Eggleston discloses the method of claim 58 wherein the questions relate to one or more of the following: current performance, desired performance, titles and positions of employees who affect company performance, desired time frame for improving performance, desired methods of improving performance, budget sensitivity, and whether other programs are currently being operated. (Col. 35, lines 3-20) (Eggleston discloses that sponsors can design combinations of incentive programs, so that successful completion of a given incentive program results in the eligibility to participate in another incentive program (a sponsor defined rule) and surveys and questionnaires are disclosed as incentive programs, the questions on the second incentive program are related to the operation of the first incentive program.)

Claim 60: Eggleston discloses the system of claim 24, wherein the business challenges include one or more of the following: increased sales and revenue, increasing profit, improving market share, attracting and retaining employees, improving employee moral, recognizing service anniversaries, and rewarding project milestones. (Fig. 20; Col 7, lines 40-45; and Col 31, lines 25-58)

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Claim 61: Eggleston discloses a method for allowing multiple customers to each create an individual, modified motivation or recognition program having participants, said programs of said multiple customers supplied by a program supplier, each said program permitting the participants to access their program via a participant processor and to earn awards through the program in which they participate on the basis of the participants' performance, each said program of a particular customer operating according to preferences selected by the particular customer, said method comprising the steps of:

- a. Allowing a first customer via a first customer processor and allowing a second customer via a second customer processor to electronically select a business challenge from a plurality of business challenges, each business challenge associated with one or more predefined programs wherein the predefined programs associated with the business challenge are presented to the customer wherein the predefined programs are designed to promote the selected business challenge, said predefined programs stored in a storage device connected to a program processor, said storage device and said program processor being remote from said customer processor and remote from said participant processor, wherein the first customer's access and program is independent of the second customer's access program. (Fig. 20; Col 7, lines 40-45; Col 14, lines 6-65; and Col 31, lines 25-58)
- b. Allowing the first customer and the second customer to each electronically select one of the presented predefined programs stored in the storage device via their

customer processor, wherein the first customer's selection is independent of the second customer's selection. (Col 14; lines 6-65)

- c. Allowing the first customer and the second customer to each electronically select via their customer processor a rules structure of the selected predefined program, said rules structure defining the manner in which awards are earned by the first and second customer's participants, wherein the first customer's modification is independent of the second customer's modification. (Col 10, lines 28-42; Col 12, lines 38-48; Col 14, lines 6-65; and Col 35, line 3 through Col 36, line 19)
- d. Allowing the first customer to electronically store the first modified program in the storage device for access by the first customer via the first customer processor. (Col 10, lines 1-54; Col 12, lines 39-48; Col 14, lines 6-65; Col 17, lines 25-50; and Col 32, lines 53-64)
- e. Allowing the second customer to electronically store the second modified program in the storage device for access by the second customer via the second customer processor. (Col 10, lines 1-54; Col 12, lines 39-48; Col 14, lines 6-65; Col 17, lines 25-50; and Col 32, lines 53-64)
- f. Allowing the first customer to operate the first modified program via the first customer processor. (Col 5, lines 46-55, Col 10, lines 1-54; Col 12, lines 39-48; Col 14, lines 6-65; Col 17, lines 25-50; and Col 32, lines 53-64)
- g. Allowing the second customer to operate the second modified program via the second customer processor, wherein the operation of the first modified program

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is independent of the second modified program. (Col 5, lines 46-55, Col 10, lines 1-54; Col 12, lines 39-48; Col 14, lines 6-65; Col 17, lines 25-50; and Col 32, lines 53-64)

- h. Providing the first customer's participants with access via their participant processor to the first modified program stored in the storage device, said modified program executed by the program processor, the first customer's participants earning awards based on the rules structures of the first modified program. (Col 5, lines 46-55, Col 10, lines 1-54; Col 12, lines 39-48; Col 14, lines 6-65; Col 17, lines 25-50; and Col 32, lines 53-64)
- i. Permitting the second customer's participants with access via their participant processor to the second modified program stored in the storage device, said modified program executed by the program processor, the second customer's participants earning awards based on the rules structures of the second modified program, wherein access by the first customer's participants to the first modified program is independent of access by the second customer's participants to the second modified program. (Col 10, line 55 through Col 11, line 7; and Col 35, line 3 through Col 36, line 19)

Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eggleston et al. (U.S. Patent Number: 6,061,660) in view of Hoffman and Rogelberg ("A guide to team incentive systems", Team Performance Management, v4n1, pp23, 1998)

Claim 2: Eggleston discloses the method of claim 1, but does not describe the specific criteria used to determine award eligibility. However, Hoffman and Rogelberg discloses a number of group-based approaches that are commonly used to reward employees (Page 2, line 6, through Page 4, line 54). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a criteria in which employees can earn awards based upon the performance of the group. One would have been motivated to include such a criteria in order to encourage cross-departmental cooperation and to provide for a fair and equitable distribution of awards.

6. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eggleston et al. (U.S. Patent Number: 6,061,660) in view of Symons and Jacobs ("A Total Quality Management-Based Incentive System Supporting Total Quality

Management Implementation", Production and Operations Management, Vol. 4, No. 3, Summer 1995)

Claim 39: Eggleston discloses the method of claim 1, wherein the allowing each customer to electronically modify includes an award calculator for recommending an award value for one or more participants based upon any sponsor selected criteria. (Col 19, line 56 through Col 20, line 32). Eggleston does not specifically state that an input salary associated with one or more participants is used as a criterion. However, Symons and Jacobs disclose an incentive program that utilizes an employee's base pay in the formula for determining an award (Page 4, Figure 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate salary into the formula for calculating an award. One would have been motivated to include salary as a criterion for award calculation in order to provide more valuable rewards to key employees of the organization. This would aid the organization in retaining key employees by fostering additional good will and loyalty.

Response to Arguments

7. Applicant's arguments filed April 16, 2007 have been fully considered but they are not persuasive.
 - a. The applicant argues that the Eggleston reference fails to teach or suggest allowing a customer to operate the modified program via a program processor,

and wherein the participant processor and a customer processor are remote from said program processor and remote from the storage device. However, the examiner disagrees. However, Eggleston discloses the use of the "client-server" model of distributed computing in which messages are sent from client computers to one or more servers and incorporates CGI programming for communication between the application and the database (Col 10, lines 28 – 42) (This inherently requires a processor at each machine). Additionally, Eggleston discloses that the application and/or storage device can reside on the Host machine (Col 5, lines 46-55, Col 10, lines 1-54; Col 12, lines 39-48; Col 14, lines 6-65; Col 17, lines 25-50; and Col 32, lines 53-64). Finally, Col 6, lines 13-19; Col 6, lines 31-46; Col 6, line 53 through Col 7 line 6; and Col 7, line 54 through Col 8, line 20; and Col 12, lines 38-48 of Eggleston disclose additional support and definitions (particularly the term host defined in Col 8, lines 13-20) that would allow one of ordinary skill to determine that the remote host is able to operate the incentive program selected by the sponsor.

- b. The applicant argues that Eggleston fails to teach or suggest providing customer access to predefined programs associated with a business challenge. However, Fig. 20; Col 7, lines 40-45; Col 14, lines 6-65; and Col 31, lines 25-58 all disclose that the incentive programs selectable by customers include business challenge incentives such as attendance monitoring and employee moral programs.
- c. The applicant argues that Eggleston fails to teach or suggest allowing the customer to electronically select a rules structure of the selected predefined

program. However, Col 35, line 4 through Col 36 line 19 specifically disclose that "the programs for a given incentive program are also associated with incentive program rules", and that "any other eligibility rules can be entered by the sponsor in defining the eligibility ".

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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